

Court of Appeals, State of Michigan

ORDER

People of MI v Dion Vanleer

Docket No. 280397

LC No. 07-100014-01

Kurtis T. Wilder
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly
Judges

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the February 13, 2007 order of the 36th District Court that dismissed the charges of unarmed robbery, MCL 750.530, and assault and battery, MCL 750.81, based on insufficient evidence at defendant's preliminary examination, and the August 3, 2007, order of the Wayne County Circuit Court that affirmed this order are REVERSED. The testimony of Tony Snodgrass established that defendant pushed him and took his camera from his hands and that defendant refused to return the camera upon being asked to do so. Accordingly, the prosecution presented "a quantum of evidence 'sufficient to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of defendant's guilt'" of the charged offenses. *People v Yost*, 268 Mich 122, 126; 659 NW2d 604 (2003). The district court erred in dismissing the charges based on its ruling that Snodgrass did not have a legal right to enter the house where the larceny occurred. A trespasser does not enjoy the same right as a tenant's right to exclusive possession and the bank as the owner of the premises had a right of access to the house. See *Ann Arbor Tenants Union v Ann Arbor YMCA*, 229 Mich App 431, 443-444; 581 NW2d 794 (1998). It appears that defendant was a trespasser since the bank did not consent to his occupancy of the house and had sent its agent to the house to "re-secure" it. See *Grant v Detroit Ass'n of Women's Club*, 443 Mich 596, 605 n 6; 505 NW2d 254 (1993). Even if Snodgrass intended to evict defendant, contrary to MCL 600.2918, Snodgrass did not accomplish this purpose; instead, Snodgrass told defendant that he could not live there and began taking pictures of the premises after defendant walked inside the house, and then called the police after defendant took his camera. Defendant's criminal actions in taking the camera by force from Snodgrass were not justified or excused under these circumstances. Therefore, the matter is REMANDED to the district court for further proceedings not inconsistent with this order.

The motion to file a late answer is GRANTED.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 11 2008

Date

Sandra Schultz Mengel
Chief Clerk